HMRC - OT14680 - Transactions - Hiring Of Assets

OTA75\Sch4\Para 2(4)(a) The words “with any necessary modification” in OTA75\Sch4\Para2(4)(a) apply the provisions of OTA75\Sch4\Para2(1) (which deals with the acquisition etc of an asset) to acquiring an interest in an asset and to renting, hiring and the provision of services etc.

Where the claimant hires an asset from an affiliate, who in turn hires from a third party, the measurement of allowable expenditure will be arrived at by reference to the hire payments made at arm’s length to the third party with an addition possibly for maintenance costs. If the asset is a property any lease premium might be taken into account in the calculation over the period of the lease.

If the claimant company hires an asset owned by an affiliate then the words “with any necessary modification” in OTA75\Sch4\Para2(4) allow for a comparison with the annual cost to the affiliate of providing the asset on hire, based on capital cost spread over the expected life of the asset in question.

But, if the asset is a property and an affiliate owns the property, then an approach based on a comparison of the rent charged with an open market or rack rent may be the best practical solution. LB Oil & Gas seeks to ensure that the total recovery by way of rental by the owning affiliate does not over a period of years exceed the capital cost of acquisition plus annual maintenance costs.

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